

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

LAURA ALLEN, INDIVIDUALLY AND AS  
ADMINISTRATRIX OF THE ESTATE OF  
DAN ALLEN, AND AS NEXT FRIEND OF  
TAYLOR ALLEN AND DANIELLE ALLEN,  
and MARK ALLEN,

Plaintiffs

v.

MARTIN SURFACING, INC.; MARTIN  
SURFACING, A DIVISION OF SOUTHWEST  
RECREATION; RONALD RYBA;  
SOUTHWEST RECREATIONAL  
INDUSTRIES, INC., d/b/a MARTIN  
SURFACING; REED J. SEATON; ROBERT N.  
WOLESENSKY, JR.; DYNAMIC SPORTS  
CONSTRUCTION, INC. AND DOES,

Defendants

CIVIL ACTION  
NO. 05-40048-FDS

**DEFENDANT, REED J. SEATON'S MOTION TO CONTINUE  
SCHEDULING CONFERENCE**

NOW comes the defendant, Reed J. Seaton, through counsel, and respectfully requests that the Court-ordered Scheduling Conference in the above matter be continued for a period of no more than two (2) weeks, as follows:

1. The Court-ordered Scheduling Conference in this matter is presently scheduled for Friday, August 26, 2005 at 3:00 p.m.

2. Defendant, Reed J. Seaton, has two attorneys representing him in the present matter, Joseph M. Noone and James T. Sullivan. Attorney Noone will be out of state on a pre-arranged vacation during the week of August 21st. Attorney Sullivan will be out of state on August 25 and 26 to take his son to begin his freshman year in college. No other attorney in the office is familiar with the present matter.

3. Counsel had circulated a letter to all attorneys having entered an appearance in this matter (a copy of the same is attached hereto as Exhibit "A"). Attorneys for co-defendants, Robert M. Wolessensky, Jr. and Dynamic Sports Construction, Inc., have graciously agreed to a continuance of the hearing, though they have requested that the same be rescheduled no more than two weeks after August 26, 2005.

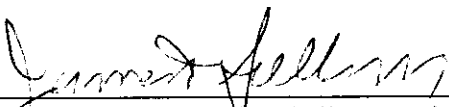
4. Counsel for the plaintiffs has not responded either to Exhibit "A" or several follow-up telephone calls. On August 12, 2005, counsel wrote to plaintiffs' attorney advising that if no response was forthcoming, the within motion would be filed upon the understanding plaintiffs' counsel did not object to a continuance (a copy of the same is attached hereto as Exhibit "B".)

5. It is noted that several parties named as defendants in the present matter have either not been served or have not entered appearances herein.

6. In light of the above, defendant, Reed J. Seaton, respectfully requests a continuance of the Scheduling Conference, said event to be no more than two weeks after August 26, 2005 or upon such other date as the Court may determine.

REED J. SEATON

By his attorneys,



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Joseph M. Noone (BBO #559644)  
James T. Sullivan (BBO #565700)  
AVERY, DOOLEY, POST & AVERY, LLP  
90 Concord Avenue  
Belmont, MA 02478  
(617) 489-5300

Dated: August 17, 2005

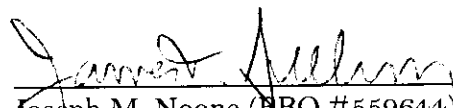
CERTIFICATE OF SERVICE

I, James T. Sullivan, hereby certify that I have this 17<sup>th</sup> day of August, 2005, forwarded the within ***Defendant, Reed J. Seaton's Motion to Continue Scheduling Conference*** to all counsel of record by delivering same via facsimile and first class mail, postage prepaid, to:

Robert J. Bonsignore, Esquire  
BONSIGNORE & BREWER  
23 Forest Street  
Medford, MA 02155

Lee Stephen MacPhee, Esquire  
Gareth W. Notis, Esquire  
MORRISON, MAHONEY, LLP  
250 Summer Street  
Boston, MA 02210

P. Douglas Barr, Esquire  
STOLL, KEENON & PARK, LLP  
300 West Vine Street, Suite 2100  
Lexington, KY 40507-1801



Joseph M. Noone (BBO #559644)

James T. Sullivan (BBO #565700)

AVERY, DOOLEY, POST & AVERY, LLP

90 Concord Avenue

Belmont, MA 02478

(617) 489-5300

## **EXHIBIT “A”**

**AVERY DOOLEY POST & AVERY, LLP**

**Attorneys at Law**

90 Concord Avenue Belmont, MA 02478

Telephone: (617) 489-5300

Fax: (617) 489-0085

August 8, 2005

**BY FACSIMILE**

Robert J. Bonsignore, Esquire  
BONSIGNORE & BREWER  
23 Forest Street  
Medford, MA 02155  
(781) 391-9496

Lee Stephen MacPhee, Esquire  
Gareth W. Notis, Esquire  
MORRISON, MAHONEY, LLP  
250 Summer Street  
Boston, MA 02210  
(617) 342-4821

Re: Laura Allen, Individually, et al v. Martin Surfacing, Inc., et al  
United States District Court, Civil Action No. 05-40048-FDS  
Our File No. IJN-030405-8363

Dear Counsel:

Both Joe Noone and I will be out of town the week of August 22, 2005. I am writing to ask if either of you would have an objection to postponing the Scheduling Conference presently scheduled for Friday, August 26, 2005 at 3:00 p.m. If there are no objections, I will forward an Assented-to motion for your signatures.

Thank you for your anticipated courtesy and cooperation in this matter.

Very truly yours,

AVERY, DOOLEY, POST & AVERY, LLP

James T. Sullivan

JTS/lmt

cc: P. Douglas Barr, Esquire

## **EXHIBIT “B”**

**AVERY DOOLEY POST & AVERY, LLP**

**Attorneys at Law**

90 Concord Avenue Belmont, MA 02478

Telephone: (617) 489-5300

Fax: (617) 489-0085

August 12, 2005

Robert J. Bonsignore, Esquire  
BONSIGNORE & BREWER  
23 Forest Street  
Medford, MA 02155

Re: Laura Allen, Individually, et al v. Martin Surfacing, Inc., et al  
United States District Court, Civil Action No. 05-40048-FDS  
Our File No. IJN-030405-8363

Dear Mr. Bonsignore:

On August 8, 2005, I wrote to you requesting that you advise as to whether you would object to continuing the Scheduling Conference in this matter. A copy of that letter is attached hereto. On August 10, 2005, I telephoned your office to again inquire if you would advise on a brief continuance.

As has been the case throughout this matter [with the sole exception of when your office contacted us to request an extension of time in which to respond to discovery, which courtesy we duly extended] you did not respond to either of the above queries. Indeed, I note that thus far in this matter, you have not responded to *any* telephone or written inquiries in regards this matter.

As you are aware, a certain degree of comity is always preferable in litigating a case. Moreover, in a matter such as the present matter in which we would expect significant discovery would take place, we would at least expect that we be extended the same professional courtesies we routinely extend to other attorneys.

If I do not hear from you in regards the proposed continuance by Monday, the 15th, I will assume you do not object to the same and advise the Court accordingly.

Very truly yours  
AVERY, DOOLEY, POST & AVERY, LLP,

James T. Sullivan

JTS/lmt

CC: Gareth Notis, Esq.  
617-342-4821